

Motor Vehicle Standards Amendment Regulations 2004 (No. 1) 2004 No. 35

EXPLANATORY STATEMENT

STATUTORY RULES 2004 No 35

Issued by the Authority of the Minister for Local Government, Territories and Roads

Motor Vehicle Standards Act 1989

Motor Vehicle Standards Amendment Regulations 2004 (No. 1)

The *Motor Vehicle Standards Act 1989* (the Act) provides for national motor vehicle standards for new vehicles when they begin to be used in transport in Australia and regulates the first supply to market of used imported vehicles. Motor vehicles are certified as meeting the national standards by the application of an identification plate.

Section 42 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the Regulations is to:

- prescribe circumstances permitting the temporary importation of non-standard road vehicles;
- streamline the collection and payment arrangements for the supply of identification plates for road trailers; and
- make minor technical amendments.

Temporary Import of non-standard vehicles

Private vehicles temporarily imported by overseas residents when visiting Australia are currently imported under the *Customs Convention on the Temporary Importation of Private Road Vehicles*, without an import approval being issued. This is not consistent with the Act, which prohibits the importation of non-standard vehicles that do not have an import approval.

Paragraph 20(1)(b) of the Act provides that a person may import a non-standard road vehicle in prescribed circumstances.

The proposed Regulations would prescribe circumstances to allow the temporary importation of vehicles that are covered by an intergovernmental agreement to which Australia is a signatory without the need to issue an individual import approval for each vehicle. This would ensure that such vehicles enter Australia on a proper legal basis.

The intergovernmental agreements covered by the Regulations include the *Customs Convention on the Temporary Importation of Private Road Vehicles* and *Status of Forces Agreements* (SOFA) with Malaysia, New Zealand, Papua New Guinea and the United States of America.

The *Customs Convention on the Temporary Importation of Private Road Vehicles* allows persons who are normally resident outside Australia to import their vehicles for private use on a temporary visit. The convention requires each of the contracting states to grant temporary admission without payment of import duties. It provides for the "home" country to issue a *Carnet de Passage en Douane* (carnet), which is effectively a licence to import a vehicle temporarily. The Regulations are consistent with subregulation 125(1) of the *Customs Regulations 1926* (Importation of goods on a temporary basis).

The *Status of Forces Agreement* (SOFA) allows for the temporary importation of vehicles by overseas armed forces and persons who are members of the armed forces of a country that is a signatory to the SOFA with Australia. The agreement requires Australia to grant temporary admission without the payment of import duties. Under current administrative arrangements an import approval is issued for vehicles imported by persons who are members of armed forces but not for official vehicles that are imported by overseas armed forces.

Collection and payment arrangements for road trailer identification plates

Regulation 60 of the *Motor Vehicle Standards Regulations 1989* (the Principal Regulations) provides for fees to be charged pursuant to functions related to the Act. The fees are set out in Schedule 2 to the Principal Regulations, and include a fee, under Item 6 of the Schedule, for placing an identification plate on road trailers. These plates are required to be affixed to each road trailer indicating that the road trailer has been approved under the Act for supply to the market. The Department of Transport and Regional Services has engaged a contractor, through competitive tender, from whom plates are purchased by trailer manufacturers. Under the current arrangements the contractor collects payments from the trailer manufacturer, which includes not only the Commonwealth's fee but also the contractor's charge for manufacturing and supplying the plate. The total amount is then remitted to the Commonwealth and the plate contractor invoices the Department for reimbursement of the manufacture/supply charge.

The Regulations remove references from the Principal Regulations to the Minister supplying identification plates for road trailers. This allows the Department's plate supply contractor to charge the approval holder directly for the price of the plates and any Commonwealth fees, rather than having to recoup fees from the Commonwealth. The contractor then passes on to the Department only the Commonwealth fee portion of the payment. As a consequence, the manufacture and supply component would be removed from the fees prescribed in Schedule 2 to the Principal Regulations. The changes to the fees for road trailers align them with the fees for other vehicles, thus streamlining the collection and payment arrangements.

Technical Amendments

The Regulations omit redundant words from subregulation 52A (3) (definition of sample). The words 'the first vehicle of a make and model approved by the Minister for importation' have been omitted from subparagraph (a) (iii) as they are a duplication of the words which appear in regulation 52A (1) (3) (a).

The Regulations also omit a redundant item from Schedule 2 to the Principal Regulations. Item 5 of that Schedule specifies a fee for the supply of blank identification plates. As blank plates are no longer supplied, item 5 is redundant and may be omitted.

The Act specifies no conditions that must be met before the power to make the proposed Regulations may be exercised.

Details of the proposed Regulations are set out in the Attachment.

The proposed Regulations commence on gazettal.

Authority: Section 42 of the *Motor Vehicle Standards Act 1989*

ATTACHMENT

Details of the proposed *Motor Vehicle Standards Amendment Regulations 2004 (No. 1)*

Regulation 1 - Name of Regulations

This regulation would provide for the Regulations to be cited as the *Motor Vehicle Standards Amendment Regulations 2004 (No 1)*.

Regulation 2 - Commencement

This regulation provides that the Regulations commence on gazettal.

Regulation 3 - Amendment of the Motor Vehicle Standards Regulations

This regulation provides that the *Motor Vehicle Standards Regulations 1989* are amended as set out in Schedule 1.

SCHEDULE 1 - AMENDMENTS

Item [1] Regulation 21A, Nonstandard road vehicles - prescribed circumstance relating to intergovernmental agreements.

This item inserts a new regulation 21A that makes the temporary importation of a vehicle into Australia under an intergovernmental agreement to which Australia is a signatory a prescribed circumstance under 20 (1)(b) of the Act.

This regulation avoids the need for individual approval on a case by case basis for each vehicle imported under such an intergovernmental agreement.

This regulation is consistent with regulation 125 of the *Customs Regulations 1926* (Importation of goods on a temporary basis), in that it applies to vehicles to which the Customs Regulations apply.

Item [2] Subregulation 52A (3) - definition of sample vehicle, subparagraph (a) (iii).

The opportunity has been taken to recommend a correction to this subregulation. The words 'the first vehicle of a make and model approved by the Minister for importation' are omitted as this is a duplication of language in 52A (1).

Item [3] Schedule 2, item 5

This item is omitted from the Schedule as blank identification plates are no longer supplied.

Item [4] Schedule 2, item 6, column 2, paragraphs (a) and (b)

The words 'supplied by the Minister' are omitted from the paragraph as this is no longer applicable. A contractor now supplies identification plates directly to approval holders.

Item [5] Schedule 2, item 6, column 3

The fee of \$58.00 is replaced with a fee of \$28.10. This change reflects the reduction of the Commonwealth fee by subtracting the current manufacturing and supply charge for the plates.

Item [6] Schedule 2, item 6, column 3

The fee of \$133.00 is replaced with a fee of \$95.20. This change reflects the reduction of the Commonwealth fee by subtracting the current manufacturing and supply charge for the plates.

Item [7] Schedule 2, item 7, column 2, paragraph (a)

The words 'supplied by the Minister' are omitted from the paragraph as this is no longer applicable.